



September 19, 2005

Mr. Matthew Spong  
Landscape Architectural Service  
P.O. Box 293  
Dover, DE 19903

RE: PLUS review – PLUS 2005-08-06; Nguyen's Nail and Tanning, Inc.

Dear Mr. Spong:

Thank you for meeting with State agency planners on August 31, 2005 to discuss the proposed plans for Nguyen's Nail and Tanning to be located at 7023 South DuPont Highway in Felton.

According to the information received, you are seeking a rezoning of 2.45 acres from BG and AR to BG for a nail and tanning salon in an existing building.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

#### **Executive Summary**

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

### **State Strategies/Project Location**

This rezoning is located in Investment Level 2 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas.

### **Street Design and Transportation**

- As indicated in the response to Item 38 on the PLUS form, US Route 13 is subject to the Corridor Capacity Preservation Program. DelDOT has a conceptual plan for service roads and interchanges in the Route 13 corridor, which plan includes the construction of East Drive for local access. Preliminarily, the developer will be required to build the portion of East Drive that is necessary for them to obtain access, to State standards, and to take their access from that road.

The following are a complete list of comments received by State agencies:

#### **Office of State Planning Coordination – Contact: David Edgell 739-3090**

The rezoning of this property is at the discretion of Kent County Levy Court. Should the Levy Court ultimately choose to grant this rezoning request, a comprehensive plan amendment will be required. This rezoning is located in Investment Level 2 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near term future. State investments will support growth in these areas. Our office has no objections to the proposed rezoning in accordance with the relevant County codes and ordinances.

#### **Department of Transportation – Contact: Bill Brockenbrough 760-2109**

Preliminarily, it does not appear that a traffic impact study will be necessary. DelDOT recommends that the applicant have Kent County send them a Support Facilities Report Request Form for this project. On receipt of that form DelDOT will evaluate the rezoning application and make a final determination in that regard.

In the response to Question 36 on the PLUS Form, it is indicated that the site traffic would generate about 20 trips per day. For a business with a single owner/operator who enters and leaves once, 20 trips per day would account for only 9 patrons per day. This number seems quite low. A revised estimate is not needed now but one will be required for the design of the site entrance.

As indicated in the response to Item 38 on the PLUS form, US Route 13 is subject to the Corridor Capacity Preservation Program. DelDOT has a conceptual plan for service roads and interchanges in the Route 13 corridor, which plan includes the construction of

East Drive for local access. Preliminarily, the developer will be required to build the portion of East Drive that is necessary for them to obtain access, to State standards, and to take their access from that road.

If the rezoning is approved, the developer should contact Mr. Brad Herb, DelDOT project manager for Kent County, regarding their specific requirements for access. He may be reached at (302) 266-9600. Questions about the Corridor Capacity Preservation Program may be addressed to the manager for that program, Mr. Charles Altevogt. He may be reached at (302) 760-2124.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

**The application states that the planned business will be located in an existing building; however, if any future development is planned, the following comments should be taken into consideration.**

**Soils**

According to the Kent County soil survey, the entire parcel is mapped as Fallsington. Fallsington is a wetland associated (hydric) soil that has severe limitations for development.

**Wetlands**

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of palustrine forested wetlands. A wetlands delineation is highly recommended; this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.

Impacts to wetlands should be avoided and vegetated buffers of no less than 100 feet should be employed from all wetlands and water bodies.

Impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

### **Impervious Cover**

The Department feels that applicant should reduce imperviousness to the greatest degree practicable. Use of pervious paving materials in lieu of asphalt or concrete and significant efforts to increase forest cover via tree plantings - are examples of practical BMPs that could easily be implemented to reduce surface imperviousness. Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline.

### **TMDLs**

Total Maximum Daily Loads (TMDLs) for nitrogen and phosphorus have been promulgated through regulation for the Murderkill River subwatershed. A TMDL is the maximum level of pollution allowed for a given pollutant below which a "water quality limited water body" can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. In the Murderkill River subwatershed, "target-rate-reductions" of 50 and 30 percent will be required for nitrogen and phosphorus, respectively. We request that a full nutrient budget be calculated to ensure compliance. Please contact Lyle Jones of Watershed Section at 739-4590 for the acceptable protocol.

Nitrogen and Phosphorus loading reductions to the Murderkill River subwatershed can also realized through the implementation of practicable best management practices (BMPs) that minimize surface imperviousness (pervious pavers) and/or maximize the perviousness of existing pervious surfaces and increase forested acreage via tree native tree plantings. Further nutrient reductions can also be realized through efforts to maximize the upland buffer distance between wetlands/water bodies and parcel lot lines. As mentioned previously, a 100-foot buffer width is the currently accepted minimum width necessary to maintain water and habitat quality.

### **Water Resource Protection Areas**

The DNREC Water Supply Section has determined that this project falls entirely within an excellent recharge area and partially within a wellhead protection area (see following map and attached map). Excellent recharge areas near-surface areas within which precipitation infiltrates the land surface to the unconfined aquifer at a more rapid rate than other areas. Wellhead protection areas are surface and subsurface areas surrounding a public water supply well where the quantity and quality of groundwater moving toward such wells may be adversely affected by land use activities.

According to the State law that created the Source Water Protection Program, county and municipal governments with more than 2,000 residents will be required to enact ordinances to protect Water Resource Protection Areas. Municipalities with fewer than 2,000 residents are encouraged to enact such ordinances. The following language has been excerpted from the Source Water Protection Guidance Manual for Local

Governments, Supplement 1 - Ground-Water Recharge Design Methodology. While the local ordinances may not yet be in place, the developer may find the language useful in modifying the site plan to protect water resources.

Water Resource Protection Areas (WRPAs) are defined as (1) surface water areas such as floodplains, limestone aquifers, and reservoir watersheds, (2) wellhead areas, or (3) excellent recharge areas. The purpose of an impervious cover threshold is to minimize

loss of recharge and protect the quality and quantity of ground and surface water supplies in WRPAs.

New development in WRPAs may exceed the 20% impervious cover threshold, but be no more than 50% impervious, provided the applicant submits an environmental assessment report recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water.

The Department recommends the following (ranked in order of preference):

- 1) Preserve WRPAs as open space and parks by acquisition or conservation easement.
- 2) Limit impervious cover of new development to 20% by right within WRPAs.
- 3) Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that directly infiltrate rooftop runoff.
- 4) Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that infiltrate stormwater runoff from forested and/or grassed surfaces with pretreatment.

For more information, refer to:

Source Water Protection Guidance Manual for the Local Governments of Delaware at <http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html>

and

Ground-Water Recharge Design Methodology at [http://www.wr.udel.edu/swaphome/phase2/Publications/swapp\\_manual\\_final/swapp\\_guidance\\_manual\\_supp\\_1\\_2005\\_05\\_02.pdf](http://www.wr.udel.edu/swaphome/phase2/Publications/swapp_manual_final/swapp_guidance_manual_supp_1_2005_05_02.pdf)

In addition, activities that include the storage or disposal of hazardous substances may be prohibited or otherwise regulated by other state regulations. For more information on activities that are regulated please refer to the [http://www.wr.udel.edu/swaphome/phase2/Publications/Existing%20Authorities%202\\_02.pdf](http://www.wr.udel.edu/swaphome/phase2/Publications/Existing%20Authorities%202_02.pdf).

Map of Nguyen's Nail and Tanning Salon PLUS 2005-08-06, with excellent recharge in green and wellhead protection in dark red with affected parcels outlined in light blue.



### **Water Supply**

The project information sheets state that an individual on-site well will be used to provide water for the proposed project. DNREC records indicate that the project is located within the public water service area granted to Tidewater Utilities under Certificate of Public Convenience and Necessity number PSC -1190. It is recommended that the owner contact Tidewater Utilities to determine the availability of public water. Any questions

concerning CPCNs should be directed to the Public Service Commission at 302-739-4247. The Division of Water Resources will consider applications for the construction of on-site wells provided the wells can be constructed and located in compliance with all

requirements of the Regulations Governing the Construction and Use of Wells. A well construction permit must be obtained prior to constructing any well(s).

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

### **Wastewater Disposal**

The applicant should contact the Small Systems Branch to ensure compliance with current wastewater regulations. They can be contacted at 739-4691.

### **Sediment and Erosion Control/Stormwater Management**

A detailed sediment and stormwater plan will be required prior to any land disturbing activity taking place on the site. The plan review and approval as well as construction inspection will be coordinated through **Kent Conservation District**. Contact Jared Adkins at (302) 741-2600, ext. 3, for details regarding submittal requirements and fees.

As of April 11, 2005, stormwater best management practices must also consider water quality as well as quantity in impaired water bodies.

### **Drainage**

The Drainage Program is aware of existing drainage problems in this area. This area is under investigation for a drainage improvement project.

The Drainage Program requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

This project is within the Murderkill River Watershed, a designated critical area, with a promulgated Total Maximum Daily Load (TMDL). Existing riparian buffers should be preserved to aid in the reduction of nutrients, sediment, and other pollutants.

### **Forest Preservation**

It is recommended that as much of the forested area be left intact as possible. DNREC recommends that the applicant consider utilizing native species in mitigation efforts. To further reduce impacts to nesting birds and other wildlife species that utilize forests, we recommend that clearing not occur April 1st to July 31st.

### **Underground Storage Tanks**

There is one active LUST site(s) located near the proposed project:

Uncle Willie's # 15, Facility # 1-000570, Project # K0311071

No environmental impact is expected from the above inactive/active LUST site(s). However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

### **State Fire Marshal's Office – Contact: John Rossiter 739-4394**

The DE State Fire Marshal's Office has no objection to the re-zoning of the property. These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Since the structures of the complex are proposed to be served by individual on-site wells (No Central or Public Water System within 1000' of property), set back and separation requirements will apply.

b. **Fire Protection Features:**

- For commercial buildings greater than 5000 SqFt, a fire alarm signaling system which is monitored off-site is required



- For commercial buildings greater than 10,000 SqFt Class B (2-hour rated) fire barriers are required to subdivide buildings into areas of 10,000 SqFt. or less
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements

**c. Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from US Route 13 must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

**d. Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

**e. Required Notes**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type

- Maximum Height of Buildings (including number of stories)
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Milton Melendez 698-4500**

*Native Landscapes*

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500. Neither the Delaware Department of Agriculture nor the Delaware Forest Service opposes the proposed rezoning by the Nguyen Nail & Tanning application. The site is located in a designated controlled development area. The *Strategies for State Policies and Spending* encourage responsible development in areas within a Growth Level 2 Zone; the Delaware Department of Agriculture and the Delaware Forest Service supports growth within these areas, and encourages the applicant to contact our office so we may be of service. Finally, as the project develops the Delaware Forest Service recommends the following to further develop forest resources within the project:

*Right Tree for the Right Place*

The Delaware Department of Agriculture Forest Service encourages the developer to use the "Right Tree for the Right Place" for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

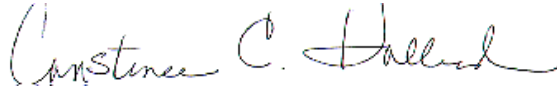
Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of**

**State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland". The signature is written in dark ink and is positioned above the printed name and title.

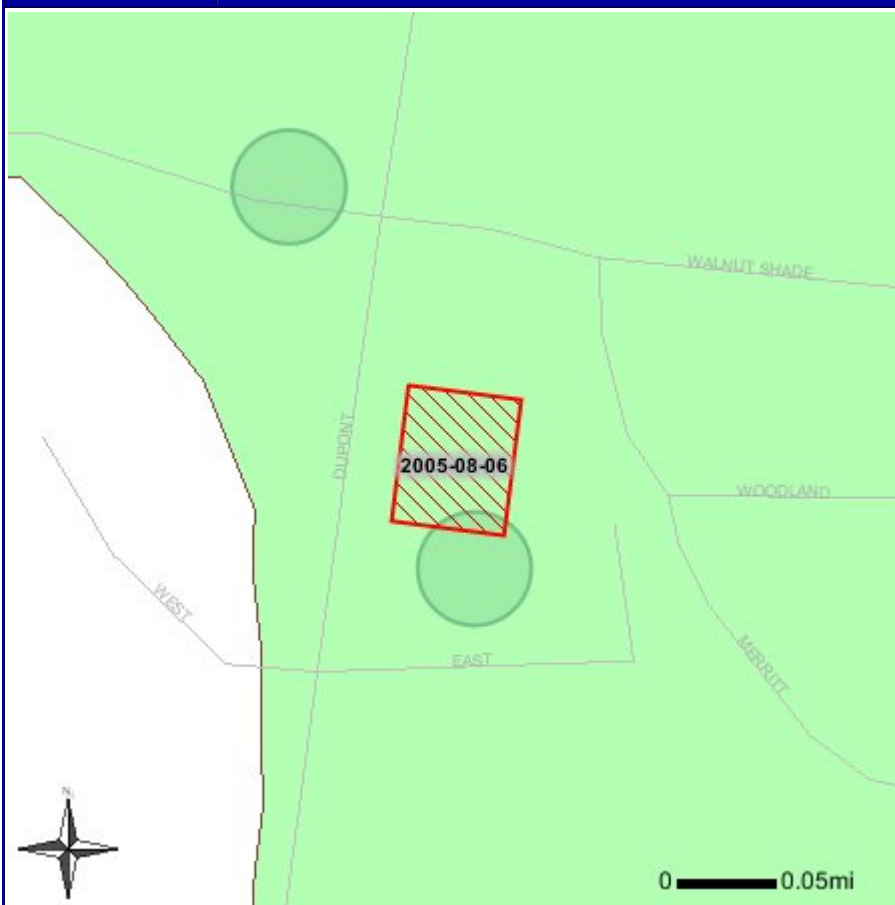
Constance C. Holland, AICP  
Director

CC: Kent County



# Nguyens Nail

2005-08-06



- PLUS Projects
- Kent WHPA
- All Roads
- Excellent Recharge Areas

This map was produced by the Delaware Department of Natural Resources and Environmental Control.

